IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6482 OF 2004

Shri Rau Hari Londhe (D.H.)
and Ors. ...Petitioner
vs.
The Special Land Acquisition
Officer, Kolhapur and Ors. ....Respondents

WRIT PETITION NO. 6472 OF 2004

Shri Keshav Babaji Londhe (D.H.)
and Ors. ...Petitioner
vs.
The Special Land Acquisition
Officer, Kolhapur and Ors. ....Respondents

N.J. Patil for the petitioner.

A.H. Palekar, AGP for respondent no.1 to 6.

CORAM: S.U. KAMDAR, J.

DATE : 25th November, 2005.

P.C. :

1. By the present petition the petitioners are challenging the acquisition proceedings initiated under the Land Acquisition Act for the purpose of

‘Dhudhaganga’ project. The persons who are affected by the project are sought to be rehabilitated under the provisions of the Rehabilitation Act and for that purpose the present acquisition has been initiated. Under the provisions of the rehabilitation Act a person holding more than the ceiling limit of 3 hectares 42 R the said land can be acquired and the person who are disowned for the purpose of any project can be rehabilitated.

2. In the present case when the acquisition proceedings were initiated the petiioenr has contended that there was a partition of the land between the petitioner in the present case and is brother who is the petitioner in the companion petition. It has been contended that while computing the ceiling land of 3 acres 42 hectares the property has to be divided between two brothers since there is a partition. However a finding has been given by the learned Additional commissioner, Pune that the petitioner has not produced any documents to show that there is

partition of the land by mets and bounds under the Rehabilitation Act and has accordingly rejected the said contention. It has been submitted by the learned counsel for the petitioner that the respondent could not have acquired the land without excluding uncultivated and rocky land from the holding of the petitioner and it is only after exclusion thereof the computation could have been made by the Additional Commissioner, Pune. In so far as the aforesaid contention is concerned the Commissioner has given his finding in para-3 of the order that the petitioner has not produced any certificate of Taluka Agricultural Officer before the competent authority regarding non-cultivable land as proof and therefore he has held that it is not possible to exclude any such land. However he has relied upon a report dated 2.1.2004 by the District Rehabilitation Officer and on perusal of the report he has found that there is cultivation of sugar-cane in the said land and that cultivation of new sugar cane crop is in progress. In that light of the matter

there is no substance in either of the point raised by the petitioner and the petition fails and I dismiss the same.

3. Learned counsel for the petitioner further submits that the petitioner is willing to give a proposal for alternate land and that the Commissioner should consider the same and if found suitable acquire the same. If such a proposal is made within three weeks then the commissioner to consider the same on its own merits and take appropriate decision. However it is made clear that whether to accept the said proposal or not is a sole discreation of the Commissioner and the decision of the Commissioner will be final in that behalf. The order of status-quo, if any, to stand vacated.

sd/-

****